


Law Enforcement Privilege



U.S. Customs and  
Border Protection

MAY 19 2022

MEMORANDUM FOR: All Chief Patrol Agents  
All Directorate Chiefs

FROM: Raul L. Ortiz  
Chief  
U.S. Border Patrol 

SUBJECT: Noncitizen Releases from U.S. Border Patrol Custody

For most of Fiscal Year 2022, U.S. Border Patrol (USBP) has been encountering historic numbers of noncitizens, resulting in USBP facilities being at, near, or over capacity. USBP is issuing guidance to address the current migrant surge and is preparing for the anticipated increase in encounters of undocumented noncitizens following the anticipated lifting of the Centers for Disease Control and Prevention's Title 42 public health order. This guidance is for situations where U.S. Immigration and Customs Enforcement (ICE)/Enforcement and Removal Operations (ERO) are unable to accept custody of noncitizens due to lack of bed space, such that noncitizens must be released directly from USBP custody to avoid overcrowding and excessive time in custody.

To the extent possible, releases of processed noncitizens should be conducted in the vicinity of Non-Governmental Organizations (NGOs) which are able to provide further services. USBP sectors will utilize Liaison Officers (LNOs) to identify in advance the specific locations which are most appropriate for the releases, paying particular attention to the availability of services and transportation options. LNOs will work with local stakeholders (i.e., local governments, cities, local law enforcement) to identify capacity and capabilities for accepting releases, safe locations, and times at which releases may be most appropriate. If safe locations are not available, or the location is unavailable due to operational, environmental, or other reasons, LNOs will engage with nearby cities and local governments to identify alternate safe locations for release.

Prior to commencing releases of noncitizens, sectors must first coordinate with local ICE/ERO partners and, whenever feasible, also should coordinate in advance with NGO shelters and local stakeholders. LNOs should have constant communication with NGOs and local stakeholders during this process to ensure appropriate situational awareness is communicated. Sectors should ensure that releases from custody are done in a safe, humane, and orderly manner. For instance, sectors should not release individuals late at night, in an unpopulated area, or in circumstances in which the individual would face a known safety risk.



If there is no available local ICE/ERO detention space or the LNO becomes aware that local NGO space may not be available, and sectors still have processed subjects who have been determined appropriate for release, sectors can begin to release those subjects to alternate safe locations. Releases should be made at "hubs" where noncitizens have access to services offered by NGOs, transportation hubs (i.e., airports, bus terminals), and/or other safe locations. The numbers and locations of all releases should be relayed to NGOs and local stakeholders. Additionally, the numbers and locations of all releases should be tracked and maintained by the sectors.

USBP will work with local stakeholders when necessary to identify reasonable transportation options from USBP facilities to the coordinated locations. In identifying transportation options, USBP should consider:

- Distance between the USBP facility and the drop-off location;
- Timing and coordination of the pick-up from a USBP facility;
- Timing and coordination of the drop-off within the community to avoid releases during unsafe times, especially when onward transportation and other services are limited;
- Safety and reliability of the transportation option; and
- Operational requirement needs.

Some scenarios for transportation may include:

- Local government provision of buses or vehicles;
- NGO assistance with transportation options;
- Contract transportation options; and
- Available USBP staff and vehicles to provide transportation.

CBP appropriations and assets may be used to transport noncitizens to provide safe and orderly releases (i.e., if local resources are overtaxed and local releases without basic services could endanger the noncitizens), and to meet identified operational needs. In some cases, non-local transportation of noncitizens to effectuate safe and orderly releases may be necessary and appropriate. Should questions arise concerning whether transportation as authorized in this memorandum is appropriate, the sectors should coordinate the determination with the Office of Chief Counsel.

Sectors will provide weekly reports to USBP Headquarters (HQ) through the corridors outlining the status of their management of releases, including but not limited to information on general locations of releases, numbers of releases, and the status of their coordination with local partners. Sectors should be prepared to, upon request, provide daily reporting on the number and manner of releases to include location and time of day.

Staff may direct their questions to the Immigration, Prosecution, and Custody Operations Unit at HQ by emailing PII